

Application No. 10/678,764

### REMARKS

The Examiner's Office Action has been studied carefully. Claims 21-27 stand rejected under 35 U.S.C. § 112, first paragraph. Claim 21-27 stand rejected under 35 U.S.C. § 103(a).

Claim 23 is cancelled. Claims 21 and 27 are amended. Claims 21, 22, and 24-27 remain in this application.

### Argument

#### The § 112, First Paragraph Rejection

Claims 1-20 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner indicated that the claimed relationship between magnetic polarity and color is not taught in the specification.

The specification, at page 6, lines 18-22, discloses the embedded magnets of the present invention and then continues with, "The only similarity to prior art inventions is the use of magnets for joining construction elements, and in the general polyhedron shapes - there are no products that use a solid plastic, polarity-colored shape and embedded magnets." This sentence, particularly the last phrase, clearly indicates that, in the blocks of the present invention, color corresponds to magnetic polarity.

Consequently, it is believed that the specification does comply with the written description requirement in that specification does teach the relationship between color and magnetic polarity.

#### The § 103(a) Rejection

Claims 21 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Roane '479 in view of Obikubo '253. More specifically, the Examiner stated that it would be obvious to a person of ordinary skill in the art at the time the invention was made to incorporate colors corresponding to magnetic polarity, as disclosed by Obikubo, in the blocks of Roane.

Claim 21 is amended to require the use of neodymium magnets. This is disclosed in the specification at page 10, lines 20-21. Since neither Roane nor Obikubo disclose the use of neodymium magnets, the combination of Roane and Obikubo cannot render Claim 21 obvious.

Since Claim 22 is directly dependent on Claim 21 and contains all the limitations of Claim 21 plus additional limitations, it is felt that Claim 22 is non-obvious in the same manner as Claim 21.

Claim 23 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Roane '479 and Obikubo '253 in view of MacGraw '905. Claim 23 is cancelled.

Claims 21-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Therrien '236 in view of Obikubo '253. More specifically, the Examiner stated that it

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would be obvious to a person of ordinary skill in the art at the time the invention was made to incorporate colors corresponding to magnetic polarity, as disclosed by Obikubo, in the blocks of Roane. Claim 23 is cancelled.

As indicated above, Claim 21 is amended to require the use of neodymium magnets. Since neither Therrien nor Obikubo disclose the use of neodymium magnets, the combination of Therrien and Obikubo cannot render Claim 21 obvious.

Since Claims 22 and 24 are directly dependent on Claim 21 and contain all the limitations of Claim 21 plus additional limitations, it is felt that Claims 22 and 24 are non-obvious in the same manner as Claim 21.

Claim 25 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Therrien '236 and Obikubo '253 and in view of Zeischegg '360. More specifically, the Examiner stated that it would be obvious to a person of ordinary skill in the art at the time the invention was made to form the Therrien/Obikubo combination described with reference to Claims 21-24 into the tetrahedron shape disclosed by Zeischegg.

Since Claim 25 is directly dependent on Claim 21 and contains all the limitations of Claim 21 plus additional limitations, it is felt that Claim 25 is non-obvious in the same manner as Claim 21.

Claims 26 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Therrien '236, Obikubo '253, and Zeischegg '360 in view of MacGraw '905. More specifically, the Examiner stated that it would be obvious to a person of ordinary skill in the art at the time the invention was made to form the Therrien/Obikubo/Zeischegg combination described with reference to Claims 21-24 with alternating polarities as disclosed by MacGraw.

Since Claim 26 is directly dependent on Claim 21 and contains all the limitations of Claim 21 plus additional limitations, it is felt that Claim 26 is non-obvious in the same manner as Claim 21.

Claim 27 is amended to require the use of neodymium magnets. This is disclosed in the specification at page 10, lines 20-21. Since none of the cited references disclose the use of neodymium magnets, the cited combination of cannot render Claim 27 obvious.

#### CONCLUSION

In view of the distinctions in Claims 21, 22, and 24-27 over the cited references, namely that the cited references do not disclose the use of neodymium magnets, allowance of these claims is respectfully solicited.

Respectfully submitted,  
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